

COMMITTEE ON SUBORDINATE  
LEGISLATION

EIGHTH REPORT

(SECOND LOK SABHA)

*(Presented on the 29th April, 1960)*



LOK SABHA SECRETARIAT  
NEW DELHI

*April, 1960*

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COMPOSITION OF THE COMMITTEE ON SUBORDINATE  
LEGISLATION

(1959-60)

1. Sardar Hukam Singh—*Chairman*,
2. Shri J. M. Mohamed Imam
3. Shri K. S. Ramaswamy
4. Shri Sinhasan Singh
5. Shri Bahadur Singh
6. Shri T. N. Viswanatha Reddy
7. Shri Aurobindo Ghosal
8. Shri Ghanshyamlal Oza
9. Shri Kanhaiyalal Bherulal Malvia
10. Shri T. C. N. Menon
11. Shri N. R. Ghosh
12. Dr. A. Krishnaswami
13. Shri Ajit Singh Sarhadi
14. Shri L. Achaw Singh
15. Shri Satyendra Narayan Sinha.

SECRETARIAT

Shri A. L. Rai—*Deputy Secretary*.

## I

### INTRODUCTION

1. The Chairman of the Committee on Subordinate Legislation, having been authorised by the Committee to present the Report on their behalf, present this their Eighth Report.

2. Subsequent to the presentation of the ~~Seventh Report~~ the Committee have held three sittings and considered 316 new 'Orders'. The Committee also considered the 'Orders' that were pending for final disposal at the time of presentation of the Seventh Report. At the sitting held on the 28th April, 1960, the Committee considered and passed this Report.

3. Observations of the Committee on matters of special interests made during the course of their examination of the 'Orders', matters which required to be brought to the notice of the House as well as the recommendations of the Committee have been included in this Report.

## II

### THE DELHI DEVELOPMENT (GRANT OF ALLOWANCES TO NON-OFFICIAL MEMBERS OF THE ADVISORY COUNCIL) RULES, 1959 (G.S.R. 1069 OF 1959).

4. The Delhi Development (Grant of Allowances to non-official members of the Advisory Council) Rules, 1959 which have been framed under section 56(1) read with clause (r) of section 56(2) of the Delhi Development Act, 1957 provide for daily and mileage allowances to non-official members of the Advisory Council constituted under section 5 of the Act.

5. Section 56(1) confers general rule-making power to carry out the purposes of the Act and clause (r) of section 56(2) pertains to rule-making power in respect of any other matter which has to, or might be, prescribed by the rules.

6. A reference was made to the Ministry of Health as to whether such rules could be made under the general rule making power or clause (r) which related to any other matter which has to, or might be, prescribed by rules.

7. The Ministry of Law who were consulted by the Ministry of Health in the matter have stated that the Delhi Development Authority is an independent juridical person having its own fund and under section 23(2) it is empowered to apply the fund towards meeting the

expenses incurred by it in the administration of the Act. As the Council is a body statutorily created to advise the Authority on the preparation of the Master Plan, the Zonal Development Plans and generally on the planning of development of Delhi and on such other matters arising out of, or in connection with the administration of the Act as may be referred to it by the Authority, the expenditure incurred by the Authority towards the allowances of members will be nothing but expenditure incurred by it in the administration of the Act. The Ministry of Law feel that such rule has necessarily to be prescribed within the meaning of section 56(2) (r) in order to carry out the purposes of the Act and thus the rules are not objectionable. However, the Ministry have suggested that a clarificatory amendment might be made in the Act when the next opportunity for amending the Act arises.

8. The Committee recommend that an express provision authorising the rule-making authority to provide for regulation and payment of daily and mileage allowances to non-official members of the Advisory Council by means of rules be made in the Act when the Act is amended next.

### III

#### AMENDMENT IN THE COFFEE RULES, 1955 (G.S.R. 549 OF 1959)

9. Rule 20 of the Coffee Rules, 1955, as substituted by G.S.R. 549 of 1959 issued under section 48 of the Coffee Act, 1942 *inter alia* provides that if at any meeting the required quorum is not there then the person presiding would adjourn the meeting to a date not later than 3 days from the date of meeting informing the members of the Committee of the date, time and place of the adjourned meeting and it would thereupon be lawful to dispose of at such adjourned meeting the business that was intended to be transacted at the original meeting irrespective of the number of members of the Committee present.

10. It was felt that as the members might have to come from distant places, a period of 3 days was not sufficient to inform the members of the date of adjourned meeting and to enable them to attend the same.

11. The Ministry of Commerce and Industry to whom the matter was referred have stated that the longer period of notice is not necessary. The intention is not, the Ministry add, to issue a regular notice of the adjourned meeting to the absentee members excepting merely to inform them of the adjournment in the routine course and thereafter dispose of the business at the adjourned meeting even if the quorum is not complete at such a meeting. It is for the members to make it convenient to attend the meetings regularly in time on receipt of a notice ten clear days before the date of the meeting.

12. The Committee, however, feel that the condition for holding an adjourned meeting of a Committee appointed by the Coffee Board on a date not later than 3 days from the date of the meeting adjourned due to lack of quorum under rule 20 of the Coffee Rules, 1955, does not allow enough time for a fresh notice of the meeting to reach the members and enable them to attend that meeting.

The Committee are of the opinion that a provision for a seven days notice for holding an adjourned meeting will be more reasonable and also afford an opportunity to the absentee members to attend the meeting. This will be in accordance with similar provisions of rules made under other Acts.

#### IV

#### THE ANCIENT MONUMENTS AND ARCHAEOLOGICAL SITES AND REMAINS RULES, 1959 (S.O. 2306 OF 1959)

13. Rule 9 of the Ancient Monuments and Archaeological Sites and Remains Rules, 1959, framed under section 38 of the Ancient Monuments and Archaeological Sites and Remains Act, 1958, provides for the imposition of fine upto five hundred rupees on persons contravening the provisions of rules 6 to 8 of the said rules when unlawfully entering any protected monument or a part thereof at a time when it is not kept open or unlawfully entering any protected monument in respect of which an order has been made under rule 4 or rule 5.

14. Similarly, rule 48 of the rules provides for a penalty for copying and filming of any protected monument or doing any other act in contravention of any provision contained in Chapter VIII of the Rules.

15. In order that the public might not be taken unaware, it was felt that the rules should provide for the display of relevant provisions of the rules and orders passed thereunder on notice boards in conspicuous parts of the protected monuments.

16. The Ministry of Scientific Research and Cultural Affairs to whom the matter was referred have stated that it is not necessary to provide for such notice boards in the rules themselves. Besides, if such a provision is made in the rules it will be necessary to put up at once such notices at all the monuments. That will not be possible considering the large number of protected monuments and the out of the way places they are scattered about. The suggestions in question, the Ministry add, will be implemented when the existing notices are replaced by the new ones which would contain necessary extracts from the rules etc.

The Committee note the assurance given by the Ministry.



**AMENDMENT TO THE REPRESENTATION OF THE PEOPLE  
(CONDUCT OF ELECTIONS AND ELECTION PETI-  
TIONS) RULES, 1956 (G.S.R. 433 OF 1959).**

17. Rule 98 of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956 which laid down the procedure to be followed before recording votes in an election by the members of Legislative Assemblies to fill seats in the Council of State or Legislative Councils has been amended by G.S.R. 433 of 1959, the rule as amended provides that instead of merely marking the list of electors on delivery of ballot paper the serial number of the ballot paper delivered to the elector would be put down against his name.

18. It was felt that the amended rule 98 would make it possible to detect as to how a particular elector had voted and that would rather endanger than ensure the secrecy of votes.

19. The Ministry of Law to whom the matter was referred, have stated that Rule 98, as it stood earlier, did not provide for entering against the elector's name of the serial number of the ballot paper delivered to him. It could not, therefore, be ascertained as to which particular ballot was issued to a particular elector. Referring to the two election cases viz. Election Petition No. 1 of 1954 (XI E.L.R. 251) and Election Petition No. 17 of 1957 (The St. Fort George Gazette Part V, dated 5-10-1957) the Ministry have further stated that such information is sometimes required by Election Tribunals in deciding disputes arising out of election petitions when allegations are made that some persons voted in the name of persons who were either dead or non-existent in that constituency.

The amendment has been made, the Ministry add, on the suggestion of the Election Commission who feel that the procedure does not offend against the secrecy of votes. A similar provision already exists in rule 108 in regard to postal ballot papers.

20. The following two points arise out of the reply given by the Ministry of Law:—

- (i) The amendment in question has been made in order to ascertain the truth of allegations of impersonation by the voters.
- (ii) The new procedure of entering the serial number of the ballot paper instead of putting a mark against the name of the voter in the electoral list does not offend against the secrecy of votes.

21. As regards the first point, the provision could be appreciated in the case of voting at election to fill seats in the Lok Sabha and the

Assemblies in view of the vastness of the voters where impersonation cannot be detected easily; but it does not appear to be necessary in the case of voting at an election by the members of Legislative Assemblies to fill seats in the Council of State or Legislative Councils because of the limited number of voters who are well known personalities.

22. The two cases referred to by the Ministry of Law relate to the voting at elections to fill seats in the Legislative Assemblies. For such cases there is already a provision in the rules providing for entering the number of ballot papers instead of putting a mark against the name of the elector in the electoral list [Rule 27(3) of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956]. The Ministry have not cited any instance where allegations of impersonation were made and the Election Tribunals required such information in a case arising out of elections by the members of Legislative Assemblies.

23. As regards the second point, the Committee are of the opinion that the new procedure for entering the serial number of the ballot paper against the name of the voter in the electoral list as provided under the existing rule 98, could lead to violation of secrecy of votes.

24. The Committee, therefore, recommend that rule 98 of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956 be restored as it stood before it was amended by G.S.R. 433 of 1959.

## VI

### THE TELEGRAPH ENGINEERING SERVICE (CLASS I) RULES, 1960 (G.S.R. 64 OF 1960)

25. The Telegraph Engineering Service (Class I) Rules, 1960 providing for the regulation of service of persons appointed to that service, have been made under proviso to Article 309 of the Constitution.

26. Rule 8 of the said Rules lays down that departmental candidates must obtain previous permission of the Head of the Department to appear in the competitive examination for admission to the service. This implies that permission to appear in the examination can be withheld by the Head of the Department.

27. It was felt that though Government should have some discretion in the matter but unless some grounds were specified in the rules under which such permission could be withheld it might be a source of undue hardship to departmental employees who would like to better their prospects through the competitive examination.



**SUMMARY OF RECOMMENDATIONS MADE IN THE EIGHTH  
REPORT OF THE COMMITTEE ON SUBORDINATE LEGIS-  
LATION (SECOND LOK SABHA)**

Serial Reference No. to para No. of the Report	Summary of Recommendations
* 1 8	An express provision authorising the rule-making authority to provide for regulation and payment of daily and mileage allowances to non-official members of the Advisory Council by means of rules be made in the Delhi Development Act, 1957, when the Act is amended next.
✓ 2 12	The condition for holding an adjourned meeting of a Committee appointed by the Coffee Board on a date not later than 3 days from the date of the meeting adjourned due to lack of quorum under rule 20 of the Coffee Rules, 1955, does not allow enough time for a fresh notice of the meeting to reach the members and enable them to attend that meeting.  Therefore, a provision for seven days notice for holding an adjourned meeting will be more reasonable and also afford an opportunity to the absentee members to attend the meeting. This will be in accordance with similar provisions of rules made under other Acts.
3 24	The new procedure for entering the serial number of the ballot paper against the name of the voter in the electoral list as provided under the existing rule 98 of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956, (as amended by G.S.R. 433 of 1959) could lead to violation of secrecy of votes. Rule 98, therefore, be restored as it stood before it was amended by the aforementioned 'Order'.
4 29	The Telegraph Engineering Service (Class I) Rules' 1960 (G.S.R. 64 of 1960) ought to be amended to provide that if Head of a Department withholds permission to a departmental candidate to appear in the examination he shall communicate to the said candidate in writing the reasons for withholding his application for appearing in the competitive examination

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**APPENDICES TO THE REPORT**

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## APPENDIX I

(See para. 37)

*Statement of 'Orders' in respect of which there has been delay in laying them on the Table*

Serial No.	No. of 'Order'	Description of 'Order'	Date of publication in the Gazette	Date of laying on the Table	†Delay Approximately	Name of the Ministry concerned		
			Years	Months	Days			
1	2	3	4	5	6	7	8	9
*1	G.S.R. 386 of 1958	Amendment to the Registration and Licencing of Industrial Undertakings Rules, 1952.	17-5-58	9-2-60	1	6	..	
‡	S.O. 2115 of 1959	Amendments to the Textiles (Production by Power-loom) Control Order, 1956.	26-9-59	25-2-60	..	3	9	} Commerce and Industry.
‡	G.S.R. 330 of 1960	Amendment to the Khadi and Village Industries Commission Rules, 1957.	19-3-60	12-4-60			23	

4	G.S.R. 94 of 1960	Amendment to the Agricultural Produce (Development and Warehousing) Corporations Rules, 1956.	23-1-60	6-4-60	..	1	29	Food and Agriculture.
5	G.S.R. 74 of 1960	Amendment to the Delhi Development (Master Plan and Zonal Development Plan) Rules, 1959	16-1-60	2-3-60	..	..	23	Health.
6	G.S.R. 142 of 1960	Re: the Delhi Development (Procedure for reference to the Central Government) Rules, 1960.	6-2-60	2-3-60	..	..	23	
7	G.S.R. 131 of 1960	Re: the Bombay Nursing Council (Reconstitution and Reorganisation) Order, 1960.	6-2-60	29-2-60	..	..	21	Home Affairs.
8	G.S.R. 176 of 1960	Re: the Bombay Housing Board (Reconstitution) Order, 1960.	20-2-60	24-3-60	..	1	2	
9	G.S.R. 228 of 1960	Amendment to the Mines Rules, 1955.	27-2-60	17-3-60	..	..	18	Labour and Employment.

*10	G.S.R. 990 of 1959	Amendments to the Indian Telegraph Rules, 1951.	29-8-59	10-2-60	..	5	10
11	G.S.R. 1065 of 1959	Amendment to the Indian Telegraph Rules, 1951.	19-9-59	23-2-60	..	3	7
12	G.S.R. 280 of 1960	Re: the Merchant Shipping (Forms of Licences) Rules 1960.	5-3-60	6-4-60	..	1	

†The inter-session periods have not been counted for delay in the case of those 'Orders' which were published when the House was not in session and were laid on the Table during the session immediately following their publication in the Gazette.

\*The 'Orders' marked with asterisks have been laid after the omission to lay them before the House was brought to the notice of the Ministries concerned.

## APPENDIX II

(See para. 39)

*Recommendations of the Committee that have been accepted by Government*

Serial No.	Reference to para number of the Report	Summary of recommendations	Gist of Government reply
1	2	3	4
✓ 1	SEVENTH REPORT (Second Lok Sabha) 32	A corrigendum to S.O. 1321 of 1959 should be issued giving the exact statutory authority under which the 'Order' was made.	This has been done by S.O. 586 of 1960 [D.P.A O.M. No. SR VII (30-32)CB/60 dated 15th March, 1960].
✓ 2	35	The Ministry concerned should issue necessary corrigenda to G.S.R. 1045 of 1959 giving adequate references to the principal rules in which it sought to carry out certain corrections.	Necessary corrigenda to G.S.R. 1045 has since been issued under G.S.R. 426 of 1960. [D.P.A. O. M. No. SR,VII(33-35)CB/60 dated 14th April, 1960].

### APPENDIX III

(See para 39)

*Recommendations not accepted by the Government but replies in respect of which have been accepted by the Committee*

Serial No.	Reference to para. number of the Report	Summary of recommendations	Gist of Government's reply
1	2	3	4
✓ 1	THIRD REPORT (First Lok Sabha) 8	Rules 2(2), 2(7), 5, 9, 11 and 15 of the Estate Duty (Controlled Companies) Rules, 1953 make provisions of substantive character which are calculated to impose taxation and therefore should have been, if necessary, included in the Act. [The Committee insisted on the implementation of this recommendation (See Appendix III, Second Report, Second Lok Sabha)].	Requesting the Committee to consider this recommendation the Government have replied :— (1) That if the matters relating to the controlled companies are incorporated in the Estate Duty Act, 1953, it will be very difficult to change those provisions with the changing circumstances. In the U. K. where these matters have been dealt with in the Act instead of in the rules constant amendments of the Act have to be made to meet the new

methods of evasion of estate duty. This point was specifically brought to the notice of Parliament during all the stages of the Bill.

(a) The Select Committee in 1948 accepted this position and included the safeguard that rules to be made in this behalf should be placed before Parliament for a specified period before final publication.

(b) The Select Committee in 1953, again was convinced that this was the proper course to adopt in the circumstances but subjected it to the modification that 'Controlled Company' should be defined in the Act itself. Parliament accepted this position and the definition was accordingly put in Section 17 of the Estate Duty Act, 1953.

(c) When the Estate Duty Bill was being discussed in the House the Minister-in-charge Shri C. D. Deshmukh stated that :—

“ It was the intention that the rules to be published would be more or less a copy



of the corresponding provisions of the United Kingdom Act which had worked well.”

(2) That Section 20 of the Estate Duty Act, 1953 requires that the rules in respect of ‘controlled companies’ shall be laid before the House of People for not less than 15 days before the date of their final publication. This rule, therefore, secures to Parliament itself full control over the rule-making power of the Board in respect of ‘controlled companies’. This is a special provision which is normally not contained in similar acts.

[D.P.A. O.M. No. SR-II (App. III)  
CB/59, dated 16th March, 1960.]

2  
FIRST REPORT  
(Second Lok Sabha)  
98

All subsidiary ‘Orders’ made under the Fertilizer (Control) Order, 1957 are to be deemed to have been issued under section 3 of the Essential Commodities Act, 1955, under which the Fertilizer (Control) Order was issued and therefore should be laid before Parliament as required under the said section.

The Committee on Subordinate Legislation in paras 60—62 of their Second Report (Second Lok Sabha) had made a similar recommendation to the effect that all subsidiary ‘Orders’ issued under Cotton Control Order, 1955 should be laid before Parliament. The Committee dropped that recommendation when the following facts were brought to their notice :—

“It is felt that there would be considerable practical and administrative difficulties in placing various orders issued under clause 14 (b)(2) of the Cotton Control Order, 1955,

before Parliament as their number sometimes runs into thousands. Apart from the question of numbers most of these subsidiary orders are very often of an *ad hoc* character and no useful purpose will be served by formally laying them before the House. Besides, under Rule 369(1) of the Rules of Procedure and Conduct of Business in Lok Sabha every paper or document to be laid on the Table is required to be duly authenticated by the member presenting it. The number of orders required to be laid in term of this recommendation was more than 4,000 in 1958. It has obviously increased since then. To authenticate all these orders, many of them unimportant and of a purely temporary nature, is a stupendous task and the time and labour involved does not appear to be commensurate with the results likely to be achieved." (Sixth Report, Second Lok Sabha, P. 20).

Since these facts are applicable to this recommendation also, the Committee may drop the recommendation.

[D.P.A. O.M. No. SR-1(94-98)/CB/57 dated 10th February, 1960].

✓ 3  
THIRD REPORT  
(Second Lok Sabha)  
Appendix IV (Item 1)

In para 20 of their Fourth Report (First Lok Sabha) the Committee had recommended that provisions regarding the conditions of service of Secretary of the Coir Board should be included in the Coir Industry Rules, 1954. The Government's reply was that the post of Secretary might have to be filled by officers drawn from different categories, e.g., officers borrowed from Central or State Governments in which case different conditions may have to be prescribed. Thereupon the Committee made the following comments :—

“ It is not clear if anybody is recruited from outside the Services. If a person can be recruited from outside the services then there ought to be some rules to regulate the conditions of his service unless the intention is always to fill up this post from the services, such a contingency is always possible.”

The Central Government do not propose to prescribe rules relating to conditions of service of the Secretary as it is not proposed to make any recruitment for this post from outside the services. Selection for the post of Secretary is made from persons already in Government service so the person appointed is familiar with the rules and procedure of administration. [D.P.A. U.O.No.SR III(Appendix IV)/59-CB, dated 3rd March, 1960].

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**APPENDIX IV**  
**(Minutes)**

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# I

## TWENTY-FOURTH SITTING

*Parliament House, New Delhi: Tuesday, the 8th March, 1960*

The Committee met from 16.15 hours to 16.50 hours.

### PRESENT

Sardar Hukam Singh—*Chairman.*

### MEMBERS

2. Shri Bahadur Singh
3. Shri T. N. Viswanatha Reddy
4. Shri N. R. Ghosh
5. Shri Ajit Singh Sarhadi.

### SECRETARIAT

Shri A. L. Rai—*Deputy Secretary.*

2. The Committee considered and took decision on memoranda prepared by the Secretariat on the following subjects and 'Orders':—

- (1) Amendment to Schedule III to the I.A.S. (Pay) Rules, 1954 (G.S.R. 1031 of 1959) (Memorandum No. 161).
- (2) The Delhi Development (Grant of Allowances to non-official members of the Advisory Council) Rules, 1959 (G.S.R. 1069 of 1959) (Memorandum No. 162).
- (3) Amendment to the 'Orders' contained in S.R.O. 4153-A of 1957 (G.S.R. 1309 of 1959) (Memorandum No. 163).
- (4) Corrigendum to the Recruitment Rules published with G.S.Rs. 517 and 944 of 1958 (G.S.R. 1347 of 1959) (Memorandum No. 164).
- (5) The Andaman and Nicobar Islands Economiser Rules, 1959 (G.S.R. 1383 of 1959) (Memorandum No. 165).
- (6) G.S.R. 549 of 1959 amending the Coffee Rules, 1955 (Memorandum No. 166).
- (7) The Ancient Monuments and Archæological Sites and Remains Rules, 1959 (S.O. 2306 of 1959) (Memorandum No. 167).

*The Delhi Development (Grant of Allowances to Non-Official Members of the Advisory Council) Rules, 1959 (G.S.R. 1069 of 1959).*

3. The Delhi Development (Grant of Allowances to non-official members of the Advisory Council) Rules, 1959 which were framed under section 56(1) read with clause (r) of section 56(2) of the Delhi Development Act, 1957 provided for daily and mileage allowances to non-official members of the Advisory Council constituted under section 5 of the Act.

4. Section 56(1) conferred general rule-making power to carry out the purposes of the Act and clause (r) of section 56(2) pertained to rule-making power in respect of any other matter which has to, or might be, prescribed by the rules.

5. A reference was made to the Ministry of Health as to whether such rules could be made under the general rule making power or clause (r) which related to any other matter which had to be, or might be, prescribed by rules.

6. The Ministry of Law, who were consulted by the Ministry of Health in the matter, replied that the Delhi Development Authority was an independent juridical person having its own fund and under section 23(2) it was empowered to apply the fund towards meeting the expenses incurred by it in the administration of the Act. As the Council was a body statutorily created to advise the Authority on the preparation of the Master Plan, the Zonal Development Plans and generally on the planning of development of Delhi and on such other matters arising out of, or in connection with the administration of the Act as may be referred to it by the Authority, the expenditure incurred by the Authority towards the allowances of members would be nothing but expenditure incurred by it in the administration of the Act. The Ministry of Law felt that such rule had necessarily to be prescribed within the meaning of section 56(2)(r) in order to carry out the purposes of the Act and thus the rules were not objectionable. However, the Ministry stated that a clarificatory amendment might be made in the Act when the next opportunity for the amendment to the Act arose.

7. The Committee felt that an express provision authorising the rule-making authority to provide for the daily and mileage allowances of non-official members of the Advisory Council by means of rules ought to be made in the Act itself at the earliest opportunity.

*Amendments in the Coffee Rules, 1955 (G.S.R. 549 of 1959)*

8. Rule 20 of the Coffee Rules, 1955 as substituted by G.S.R. 549 of 1959 *inter alia* provided that if at any meeting the required quorum was not complete then the person presiding would adjourn the meeting to a date not later than 3 days from the date of meeting informing the members of the Committee of the date, time and place

of the adjourned meeting and it would thereupon be lawful to dispose of at such adjourned meeting the business that was intended to be transacted at the original meeting irrespective of the number of members of the Committee present.

9. It was felt that as the members might have to come from distant places, period of 3 days was not sufficient to inform the members of the date of the adjourned meeting and to enable them to attend the same.

10. The Ministry of Commerce and Industry to whom the matter was referred considered that the longer period of notice was not necessary and replied that under the existing rule 20(2) of the Coffee Rules, 1955, the Coffee Board could choose its own mode for informing the members of the date, time and place of the adjourned meeting and that the rules did not contemplate the issue of regular notice for the adjourned meeting as required under rule 19(2) thereof *i.e.* in the case of calling for a regular meeting. The Ministry stated that the intention was not to issue a regular notice of the adjourned meeting to the absentee members excepting merely to inform them of the adjournment in the routine course and thereafter dispose of the business at the adjourned meeting even if the quorum was not complete at such a meeting. It was for the members to make it convenient to attend the meetings regularly in time on receipt of a notice ten clear days before the date of the meeting.

11. The Committee considered the reply of the Ministry and felt that the condition for holding the adjourned meeting on a date not later than 3 days from the date of the adjourned meeting did not allow enough time for the fresh notice of the meeting to reach the members and enable them to attend that meeting.

The Committee were of the opinion that a provision for a seven days notice for holding an adjourned meeting would be more reasonable and afford an opportunity to the absent members to attend the meeting. The Committee noted that such provisions were found in rules made under other Act.

*The Ancient Monuments and Archæological Sites and Remains Rules, 1959 (S.O. 2306 of 1959)*

12. Rule 9 of the Ancient Monuments and Archæological Sites and Remains Rules, 1959 framed under section 38 of the Ancient Monuments and Archæological Sites and Remains Act, 1958, provided for the imposition of fine upto five hundred rupees on persons contravening the provisions of rules 6 to 8 of the rules for unlawfully entering any protected monument or a part thereof at a time when it was not kept open or unlawfully entering any protected monument in respect of which an order had been made under rule 4 or rule 5.

13. Similarly rule 48 of the rules provided for a penalty for copying and filming of any protected monument or doing any other

act in contravention of any provision contained in Chapter VIII of the Rules.

14. In order that the public might not be taken unaware, it was felt that the rules should provide for the display of relevant provisions of the rules and orders passed thereunder on notice board in conspicuous parts of the protected monuments concerned.

15. The Ministry of Scientific Research and Cultural Affairs to whom the point was referred replied that it was not necessary to provide for such notice boards in the rules themselves. Besides, if such a provision was made in the rules it would be necessary to put up at once such notices at all the manuments. That would not be possible considering the large number of protected monuments and the out of the way places they were scattered about. Hence what the Ministry proposed was to implement the suggestions in question in due course. There were notices in all the monuments, the Ministry stated and assured that these notices when replaced by the new ones would include the necessary extracts from the rules etc.

16. The Committee noted the assurance given by the Ministry.

*Ambiguities in 'Orders'*

(i)

17. G.S.R. 1031 of 1959 as published in the Gazette of India Part II, Section 3(i) dated the 12th September, 1959, was not clear due to a misprint in the preamble.

18. The Committee noted that on being pointed out the concerned Ministry of Home Affairs had rectified the mistake by issuing a corrigendum under G.S.R. 1356 of 1959.

(ii)

19. The amending G.S.R. 1309 of 1959 as published in the Gazette of India did not mention the short title of the original 'Order' sought to be amended in the absence of which it was very difficult for the public to ascertain the subject matter of the amending 'Order'.

20. The Committee noted that on a reference being made, the concerned Ministry of Food and Agriculture had in consultation with the Ministry of Law, issued a fresh 'Order' entitled "The Rice (Punjab) Price Control, Order, 1960" (G.S.R. 195 of 1960) superseding the earlier ones as the principal 'Order' also did not contain any short title.

(iii)

21. G.S.R. 1347 of 1959 sought to carry out certain corrections in the recruitment rules published in the Gazette of India under G.S.Rs. 517 and 944 of 1958 but in the absence of adequate references



to the principal rules *viz.* G.S.R. numbers with the date of their publication etc. it was very difficult for the public or the persons concerned to trace the principal rules and link the amendments.

22. The Committee noted that on being pointed out, the Ministry of Education had issued a fresh notification containing necessary references to the principal rules (*vide* G.S.R. 162 of 1960).

(iv)

23. G.S.R. 1383 of 1959 as published in the Gazette of India contained only the title of the rules *viz.* 'The Andaman and Nicobar Islands Economiser Rules, 1959' but omitted to publish the text of the rules.

24. The Committee noted that on being pointed out the Ministry of Home Affairs had published a fresh notification in the Gazette which contained the text of the rules as well. (*Wide* G.S.R. 175 of 1960).

25. The Committee then adjourned *sine die*.

## II

### TWENTY-FIFTH SITTING

*Parliament House, New Delhi: Tuesday, the 26th April, 1960*

The Committee met from 16.00 hours to 16.40 hours.

#### PRESENT

Sardar Hukam Singh—*Chairman.*

#### MEMBERS

2. Shri J. M. Mohamed Imam
3. Shri Sinhasan Singh
4. Shri Bahadur Singh
5. Shri Aurobindo Ghosal
6. Shri N. R. Ghosh
7. Dr. A. Krishnaswami
8. Shri Ajit Singh Sarhadi.

#### SECRETARIAT

Shri A. L. Rai—*Deputy Secretary.*

2. The Committee considered and took decision on memoranda prepared by the Secretariat on the following subjects and 'Orders':—

- |     |   |   |   |   |   |
|-----|---|---|---|---|---|
| (2) | * | * | * | * | * |
| (1) | * | * | * | * | * |
- (3) Amendment in the rules published with the Ministry of Health Notification No. F. 13-16/59-L.S.G. dated the 21st October, 1959 (G.S.R. 1418 of 1959) (Memorandum No. 170).
  - (4) Corrigendum to the rules contained in the Ministry of Health Notification No. F. 16-53/58-Instt. dated the 26th October, 1959. (G.S.R. 1350 of 1959) (Memorandum No. 171).
  - (5) Amendment to the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956 (G.S.R. 433 of 1959) (Memorandum No. 172).

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\*Omitted portions of the Minutes are not covered by the Eighth Report.

- (6) The Telegraph Engineering Service (Class I) Rules, 1960 (G.S.R. 64 of 1960) (Memorandum No. 173).
- (7) Implementation of recommendations of the Committee on Subordinate Legislation re: Estate Duty (Controlled Companies) Rules, 1953 (Memorandum No. 174).
- (8) Delay in laying of 'Orders on the Table (Memorandum No. 175).
- (9) Action taken or proposed to be taken by Government on various recommendations of the Committee on Subordinate Legislation (Memorandum No. 176).

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4.	*	*	*	*	*
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8.	*	*	*	*	*
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11.	*	*	*	*	*
12.	*	*	*	*	*

#### *Proper Referencing of 'Orders'*

13. G.S.Rs. 1350 and 1418 of 1959 sought to carry out certain corrections/amendments in the rules published in the Gazette earlier. Adequate references to the principal rules viz. the G.S.R. numbers with the dates of the Gazette in which they were published were not given except the file numbers of the Ministry concerned. Therefore, it would not have been possible for the public or the persons concerned to locate the original rules merely by referring to the file numbers as given in the 'Order' and link the corrections/amendments. The Committee noted that on being pointed out to the Ministry concerned, necessary corrigenda were issued under G.S.Rs. 165 and 310 of 1960.

#### *Amendment to the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956 (G.S.R. 433 of 1959)*

14. Rule 98 of the Representation of the People (Conduct of Elections and Election Petitions) Rules, 1956 which laid down the procedure to be followed before recording votes in an election by the members of Legislative Assemblies to fill seats in the Council of States or Legislative Councils was amended by G.S.R. 433 of 1959. The

rule as amended provided that instead of merely marking the list of electors on delivery of ballot paper the serial number of the ballot paper delivered to the elector should be put down against his name.

15. The Committee on Subordinate Legislation at their sitting held on the 11th August, 1959 considered the said rule and invited the comments of the Ministry of Law thereon as the Committee had felt that the amended rule 98 would make it possible to detect as to how a particular elector had voted and that would rather endanger than ensure the secrecy of votes.

16. The Ministry of Law stated that Rule 98, as it stood, did not provide for entering against the elector's name of the serial number of the ballot paper delivered to him. It could not, therefore, be ascertained as to which particular ballot was issued to a particular elector. Referring to the two election cases viz. Election Petition No. 1 of 1954 (XI E.L.R. 251) and Election Petition No. 17 of 1957 (The St. Fort George Gazette Part V dated 5-10-1957)—the Ministry stated that such information was sometimes required by Election Tribunals in deciding disputes arising out of election petitions when allegations were made that some persons voted in the name of persons who were either dead or non-existent in that constituency.

17. The amendment was made, the Ministry added, on the suggestion of the Election Commission who felt that the procedure did not offend against the secrecy of voting. A similar provision already existed in rule 108 in regard to postal ballot papers.

18. The following two points arose out of the reply given by the Ministry of Law—

- (i) the amendment in question had been made in order to ascertain the truth of allegations of impersonation by the voters.
- (ii) the new procedure of entering the serial number of the ballot paper instead of putting a mark against the name of the voter in the electoral list did not offend against the secrecy of votes.

19. As regards the first point the suggestion could be applicable in the case of voting at election to fill seats in the Lok Sabha and the Assemblies in view of the vastness of the voters where impersonation could be detected easily; but it did not appear to be so in the case of voting at an election by the members of Legislative Assemblies to fill seats in the Council of States or Legislative Councils because of the limited number of voters whose identity was well known.

20. The two cases referred to by the Ministry of Law related to the voting at elections to fill seats in the Legislative Assemblies. For such cases there was already a provision in the rules providing for

entering the number of ballot papers instead of putting a mark against the name of the elector in the electoral list [Rule 27(3)]. The Ministry had not cited any instance where allegations of impersonation were made and the Election Tribunals required such information in the cases arising out of the elections by the members of Legislative Assemblies.

21. As regards the second point, the Committee were of the opinion that the new procedure of entering the serial number of the ballot paper against the name of the voter in the electoral list could lead to violation of the secrecy of votes.

The Committee desired that the said rule 98 as it stood before it was amended by G.S.R. 433 of 1959, should be restored.

*The Telegraph Engineering Service (Class I) Rules, 1960 (G.S.R. 64 of 1960)*

22. The Telegraph Engineering Service (Class I) Rules, 1960, providing for the regulation of service of persons appointed to that service, were made under proviso to Article 309 of the Constitution.

*Rule 8.—*

23. This rule laid down that departmental candidates must obtain previous permission of the Head of the Department to appear in the competitive examination for admission to the service. This implied that permission to appear in the examination could be withheld by the Head of the Department.

24. It was felt that though Government should have some discretion in the matter but unless some grounds were specified in the rules under which such permission could be withheld it might be a source of undue hardship to departmental employees who would like to better their prospects through the competitive examination.

25. The Ministry of Transport and Communications to whom the matter was referred, had stated that the previous permission of the Head of the Department in such cases was necessary because it was the Head of the Department alone who could certify whether the candidate was a temporary or permanent employee in order to enable him to claim relaxation from maximum age limit permissible under Rule 8 (*i.e.* from 25 years to 30 years). Further, it was the Head of the Department who could know whether the departmental candidate's record of service was satisfactory or not and whether he was ever punished for serious lapses and misconduct etc. The Ministry had further stated that no case had so far occurred where such permission had been refused. However, the Committee felt that the rules in question ought to be amended to provide that if the Head of the Department withheld permission to a departmental candidate to

appear in the examination, he would communicate to the said candidate in writing the reasons for withholding his application.

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28.	*	*	*	*
29.	*	*	*	*

*Delay in laying 'Orders' on the Table*

30. The Committee were pleased to note that there was marked improvement in promptly laying of the 'Orders' on the Table. The Committee, however, noted that in certain cases the 'Orders' were laid after a period of 15 days as shown in Appendix I. (See page 11 *ante*).

*Action taken or proposed to be taken by Government on various recommendations of the Committee on Subordinate Legislation*

31. The Committee considered the replies sent by the Government in respect of action taken by the Government on various recommendations of the Committee.

32. The recommendations which were accepted by the Government are given in Appendix II. (See page 14 *ante*). Recommendations in respect of which the Government had given their own suggestions and such suggestions were accepted by the Committee are given in Appendix III. (See page 15 *ante*).

33. The Committee then adjourned to meet again at 16:00 hours on Thursday, the 28th April, 1960 to consider draft Eighth Report.

### III

#### TWENTY-SIXTH SITTING

Parliament House, New Delhi: Thursday, the 28th April, 1960

The Committee met from 16.00 hours to 16.20 hours.

#### PRESENT

Sardar Hukam Singh—*Chairman*.

#### MEMBERS

2. Shri Sinhasan Singh
3. Shri Aurobindo Ghosal
4. Shri N. R. Ghosh
5. Shri Ajit Singh Sarhadi
6. Shri Satyendra Narayan Sinha.

#### SECRETARIAT

Shri A. L. Rai—*Deputy Secretary*.

2. The Committee considered the draft Eighth Report and adopted the same.

3. The Committee authorised the Chairman and in his absence Shri Sinhasan Singh to present the Report to the House.

4. The Committee then adjourned *sine die*.

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